



TOWN OF NEW WINDSOR
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OFFICE OF THE PLANNING BOARD

WEDNESDAY -- JUNE 27, 2007 - 7:30 PM
TENTATIVE AGENDA

CALL TO ORDER

ROLL CALL

Approval Of Minutes Dated: April 25, 2007; May 9, 2007; May 23, 2007

REGULAR ITEMS:

1. **ROYAL FOODS (07-18) WALNUT AVE. (DeKay)** Proposed freezer addition to existing food supply business.
2. **LANDS OF NADAS SUBDIVISION (07-19) BULL ROAD (DeKay)**
Proposed 2-lot residential subdivision.
3. **RPA CONDOMINIUMS (01-65 & 66) UNION AVE & RT. 32 (SHAW)**
Proposed residential units.
4. **JOSEPH FUMAROLA (07-17) RT. 207 (YANOSH)** Proposed two-lot residential subdivision.
5. **MC ARDLE LOT LINE CHANGE (06-17) REAPPROVAL - OLD FORGE HILL ROAD.** Proposed reapproval of Lot Line Change not filed with the County Clerk.
6. **SCHOONMAKER HOMES (04-20) REAPPROVAL - KINGS ROAD & RT. 207** - Proposed reapproval of 4-lot residential subdivision not filed with County Clerk.

DISCUSSION

ADJOURNMENT

(NEXT MEETING - JULY 11, 1007)

June 27, 2007

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TOWN OF NEW WINDSOR

PLANNING BOARD

JUNE 27, 2007

MEMBERS PRESENT: JERRY ARGENIO, CHAIRMAN
NEIL SCHLESINGER
HENRY VAN LEEUWEN
HOWARD BROWN
JOSEPH MINUTA
DANIEL GALLAGHER

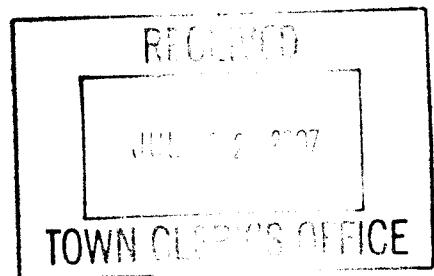
ALTERNATES: HENRY SCHEIBLE

ALSO PRESENT: MARK EDSALL, P.E.
PLANNING BOARD ENGINEER

MICHAEL BABCOCK
BUILDING INSPECTOR

MYRA MASON
PLANNING BOARD SECRETARY

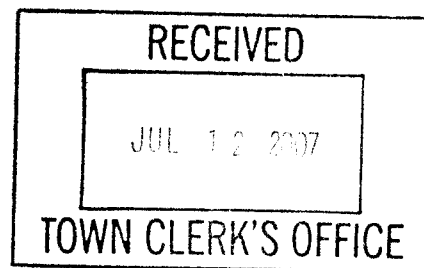
ADAM RODD, ESQ.
PLANNING BOARD ATTORNEY



REGULAR MEETING.

MR. ARGENIO: I'd like to call to order the June 27, 2007 meeting of the New Windsor Planning Board. Please stand for the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited.)



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MR. ARGENIO: With us tonight is Mark Edsall, Franny's here, Mike Babcock is here. We have substitute attorney as Mr. Cordisco is away, would you please introduce yourself?

MR. RODD: Adam Rodd from the law firm of Drake, Loeb.

MR. ARGENIO: Thank you for being with us tonight. And we have a full board. We're going to get right to it because we have quite a bit to do tonight.

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APPROVAL_OF_MINUTES_DATED_APRIL_25,_MAY_9_AND_MAY_23,_

2007

MR. ARGENIO: First item approval of the minutes dated April 25, May 9 and May 23 all of 2007, someone sees fit.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board accept the minutes as written for April 25, May 9 and May 23, 2007. If there's no further discussion from the board members, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

people shopping there and they're in and out, it's not a high volume thing. So what we have done here we have shown handicapped parking spaces, ten parking spaces which go by the zoning the parking calculation which requires one space for every 150 square feet of total floor area, most of this floor area is storage and working area for his meat products.

MR. ARGENIO: Do you meet the parking calculations?

MR. DEKAY: Yes, so what we have done here we have shown what's required and what's existing and a table, lower left-hand corner and my son and I we surveyed the property and we show the topo, there's no, the property immediately to the west of us is the parking lot for the American Legion so there's no residences or buildings nearby here.

MR. ARGENIO: To the east is a vacant lot, correct, and to the north is a large pile of Item 4 owned by Joseph Mitchell (phonetic) and Mark Aboyia (phonetic)?

MR. DEKAY: That's correct and we show the embankment the way it is and the contours, it's a relatively level piece of ground and there's not much more that I can say unless you have a question specifically.

MR. ARGENIO: Mike, is there any setback issues here?

MR. BABCOCK: No.

MR. ARGENIO: As a pre-existing, non-conforming use the modification of the structure is permitted to expand a maximum of 30 percent per Section 373 (b) of the Town Code. This application proposes extension of approximately 20 percent, if the entire freezer and loading dock are considered which is certainly the most liberal interpretation of what they have here.

MR. VAN LEEUWEN: The pad underneath the freezer is

that going to be frost free?

MR. DEKAY: Yeah, I guess so, it will be poured concrete, yeah.

MR. ARGENIO: It's probably insulated, I would imagine.

MR. DEKAY: He has an architect, Jay Klein.

MR. EDSALL: Mr. Chairman, just a comment on the parking if I might.

MR. ARGENIO: Go ahead, Mark.

MR. EDSALL: The parking calculation if you considered the entire building retail as Mr. DeKay indicated would be up almost 20 spaces which obviously is not the case.

MR. ARGENIO: I would agree.

MR. EDSALL: Even if we look at the spaces as being the building rather as being wholesale it would require the 10. I think we should just note that really at this point there's a pre-existing, non-conforming parking situation as well because right now the front row of parking exists but the spaces seven through ten don't exist, they're paved but they're on a finished area of gravel but they don't exist so they have provided at minimum additional spaces to cover what's proposed as part of this application. But I wanted the record to note that there's in all likelihood a pre-existing, non-conforming situation that's not being worsened, it's being improved to some extent.

MR. ARGENIO: And he will have to create those spaces inasmuch as they're shown on the plan?

MR. EDSALL: That's why I bring it up. My suggestion is that we ask them to properly stripe 1 through 6 which includes the handicapped space which has proven

itself to be more than enough for the business and that spaces 7 through they have demonstrated that they have overflow if needed, I don't know that it's needed to make them pave that space if it's lasted for 60 years without it, 50 years and I don't know that the freezer's going to change their operation that much.

MR. ARGENIO: I don't think that's unreasonable.

MR. EDSALL: I wanted the board to go on record with that position so Mike and I would have some guidance in the field.

MR. ARGENIO: Does anybody else have any questions on this? Pretty simple.

MR. VAN LEEUWEN: Very simple.

MR. ARGENIO: I've got to go through some procedural things if anybody sees--

MR. VAN LEEUWEN: I'd like to make a motion to declare negative dec, lead agency, I'm sorry.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made sane seconded that the Town of New Windsor Planning Board declare itself lead agency for the SEQRA process. If there's no further discussion, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. VAN LEEUWEN: Make a motion to declare negative

dec.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion's been made and seconded that the Town of New Windsor Planning Board declare negative dec under the SEQRA process for Royal Foods. If there's no further discussion from the board members, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: I will open up item 6 as we usually do for the board to discuss, item 6 for the members of the audience is a discussion on the necessity or not of a public hearing for this.

MR. VAN LEEUWEN: I make a motion to waive public hearing.

MR. SCHLESINGER: I agree, waive it.

MR. BROWN: I agree.

MR. GALLAGHER: I agree.

MR. ARGENIO: Motion has been made and seconded that we waive the public hearing per our discretionary judgment under paragraph 30-86 of the Town Zoning Law. If there's no further discussion from the board members, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
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MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Mark, am I missing anything here?

MR. EDSALL: No, my suggestion is going to be if you move to an end point on the application that any resolution be such that you direct the attorney to prepare all the appropriate resolutions and authorize the chairman to sign them once they're prepared.

MR. ARGENIO: I'll have a motion.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board authorize the attorney to prepare the appropriate final approval motions and authorize me or Mr. Van Leeuwen or the secretary, Neil Schlesinger, to sign them. If there's no further discussion from the board members, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

LANDS_OF_NADAS_SUBDIVISION_(07-19)

Mr. Richard DeKay appeared before the board for this proposal.

MR. ARGENIO: This plan proposes the subdivision of the 5.19 acre parcel into two single family residential lots. The plan was reviewed on a concept basis only. Sir, what say you?

MR. DEKAY: Okay, first of all I'd like to introduce Mrs. Linda Nadas, she and her husband, Arthur, own this property on Bull Road and this is a separate lot that was approved a number of years ago. It tells right on the plan, here it is right here in the upper left-hand corner it says lot number 5 subdivision lands for Arthur Nadas as and Linda Nadas filed in the Orange County Clerk's Office for February 13, 1987 as filed map number 8102, it's 5.19 acres. So what they have asked me to do is subdivide the property and make two lots that conform to the present zoning.

MR. ARGENIO: You're going to have to help me a little bit understanding what's going on here. You see in the top of the plot plan it says 312 lineal feet plus or minus in the property there?

MR. DEKAY: Yeah.

MR. ARGENIO: What's that line?

MR. DEKAY: That's the dividing line between the two proposed lots.

MR. ARGENIO: That's what you're proposing?

MR. DEKAY: Yes.

MR. ARGENIO: So the whole parcel is the whole envelope and you're proposing on putting a line which is that

312 line all the way down to Bull Road, yes?

MR. DEKAY: Correct.

MR. ARGENIO: What size are the lots you're creating?

MR. DEKAY: Okay, we've got that in the lower left-hand corner, the minimum lot area required is 80,000 square feet, lot 1 is 81,000 and lot 2 would be 145,000 square feet, so they conform to the present zoning plus the lot width is all indicated, everything's to code.

MR. VAN LEEUWEN: Lot number 2 I can't quite read it on this copy here, how many feet of frontage does that have?

MR. DEKAY: It's 192.

MR. ARGENIO: Mike Babcock, are you aware of any setback issues with these proposed site home locations?

MR. BABCOCK: No.

MR. ARGENIO: A review by the Town Highway Superintendent is required for the driveways curb-cut to the Town road. Adequate information regarding grade/slope at the access, storm water drainage provisions and sight distances should be included on the plan. Do you have a copy of that comment made by Mark? That's item 2. Also the typical driveway detail should be--

MR. EDSALL: Dick, if you don't have that detail I've got one for you, I'll get it to you.

MR. DEKAY: I think we've got it.

MR. ARGENIO: Are you folks in an AG zone out there?

MRS. NADAS: Yes.

MR. ARGENIO: You're in an AG zone?

MR. DEKAY: Yeah, we filled it out in the application.

MR. ARGENIO: Well--

MR. VAN LEEUWEN: But the, you have to ask for, you haven't asked for that in your taxes, have you?

MRS. NADAS: We have, the land is in use, yeah.

MR. VAN LEEUWEN: It is for AG?

MRS. NADAS: Yes.

MR. ARGENIO: Does that require county?

MR. EDSALL: Adam and I were just trying to confirm, we do believe it does, neither one of us have a copy of 239 with us but we'll send it if required.

MR. SCHLESINGER: I don't think you asked whether they declared agricultural, I don't think they have enough acreage.

MR. VAN LEEUWEN: Yeah because they own lots of land around it, this is not the only these piece they own, they own a whole section here.

MR. ARGENIO: My concern, Neil, my motivation if it's in an AG zone by law we're required to go for county review, that's why I'm asking the AG zone question. I don't care if you sell rice or wheat or hay, it doesn't matter to me, but that does trip that law, you don't have a choice. I want to read bullet number 4 of Mark's. The applicant is reminded that soil tests minimum two percolation tests and one deep test in support of the sanitary disposal system design must be witnessed by a representative of our office. There's

been a lot of problems. What was your name, ma'am?

MRS. NADAS: Linda Nadas.

MR. ARGENIO: Mrs. Nadas, there's a lot of problems in the west end of town with percs for sanitary disposal systems, that's why we have Mark's office witness the tests. Does anybody else have anything? I see this as a pretty simple application. Anybody have any trick questions or anything they'd like to ask relative to this application? I'd like to hear from the other members on item number 6 on relative to the public hearing.

MR. SCHLESINGER: Is there any existing houses on the property?

MR. VAN LEEUWEN: Make a motion to waive the public hearing.

MR. SCHLESINGER: Existing house on the property?

MRS. NADAS: On that 5 acres, no.

MR. DEKAY: Nothing. I show you a proposed house site and proposed driveway and I've got profiles coming in but I have to add some little bit more information.

MR. ARGENIO: Neil, Howard, how do you feel about that?

MR. SCHLESINGER: I don't see it.

MR. GALLAGHER: I don't, is there any houses within the close vicinity?

MRS. NADAS: No.

MR. VAN LEEUWEN: There's a house across the street but it's not a busy area there, it's very quiet.

MR. GALLAGHER: I have no problems.

MR. ARGENIO: I'm going to back up just a bit, if anybody's sees fit, I'll accept a motion that we declare ourselves lead agency.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board declare itself lead agency under the SEQRA process. If there's no further discussion, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Mrs. Nadas, I think you can see you can get a tone from the planning board that we're certainly looking favorably on your application. I don't see any big issues but there are laws unfortunately that we have to follow and one of them is going to be to forward this to the Orange County Planning Department and get input from them. Now I can assure you that as soon as we hear from them we'll move forward in this application.

MRS. NADAS: You do that process?

MR. ARGENIO: What will happen is your engineer will contact Myra and she'll tell you what to do and how to do it. Is that okay?

MS. MASON: Yes.

MR. ARGENIO: Mark, am I missing anything else procedurally?

MR. EDSALL: No, I'll check the Orange County Planning issue, Mr. DeKay can coordinate for the perc tests.

MR. ARGENIO: You need to get the perc tests done, the architect will do that, you need to get the driveway detail on the plans. I really don't see a lot more going on here with this, it's pretty a simple application. Okay?

MR. EDSALL: You may want to in lieu of going out and measuring sight distances you might be able to flag the proposed location and ask the highway superintendent to take a look at it and he'll let you know if he needs anything further.

MR. ARGENIO: Probably a good suggestion.

MR. EDSALL: It's an easy stop for him.

MR. ARGENIO: Probably a good suggestion to get that done for the next meeting, that way it will be clean. Thank you for your time.

MR. VAN LEEUWEN: Make a motion to waive public hearing.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that we waive the public hearing for the Nadas minor subdivision. If there's no further discussion, roll call.

ROLL CALL

MR. SCHLESINGER AYE

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MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

RPA_CONDOMINIUMS_(01-64_&_66)

Mr. Gregory Shaw of Shaw Engineering appeared before the board for this proposal.

MR. ARGENIO: This application involves development of multi-family condominium site plan on the westerly portion of the RPA property. Plan was previously reviewed at the 12 December, 2001, 22 May, 2002, 10 March, 2004, 9 May, 2007 planning board meetings. The site plan development component of the PUD which stands for Planned Unit Development previously reviewed and approved by the Town of New Windsor Town Board. Greg, the purpose of this appearance at this meeting this evening is as follows. Applicant is seeking conceptual endorsement of the revised development plan as well as proposed unit count. Applicant seeks verification that the scope for the DSEIS which is Draft Supplemental Environmental Impact Statement previously adopted by the board continues to remain valid. That being said, what have you, Mr. Shaw?

MR. SHAW: Well, we're pretty much in the same position that we were when we left this board a couple months ago. We're looking for concept plan approval. This plan reflects 177 condominiums on 55.1 acres. The parcel will be segmented by the existing Central Hudson easement which runs through the middle of the property which is 150 feet wide and with this scheme which I believe is to the board's, as per the recommendation this is going to be a town road which is going to terminate in that cul-de-sac with an easement area with the expectation of some day extending out to Route 300, return in this fashion. We're giving the town a relatively large area to extend that road in a north to south direction and then when the lands of Shedden get developed the town would have a major thoroughfare which it's been looking for.

MR. ARGENIO: If I can interrupt, I don't know if I

said this before but I'll say it again, if I said it before, please excuse me for repeating myself, a lot of thought's gone into this and the applicant has been very accommodating in arriving at something that could possibly at a later date give us a route around Five Corners. Greg Shaw has worked very hard in figuring out how to do this, certainly with the applicant paying all his fees to do such and what we have here, what Mr. Shaw and the applicant have here is something that possibly at some point in time later we can create a link that goes around Five Corners. Anybody who's been through Five Corners can certainly understand the traffic issues that we have there, anybody who's been on this board for any length of time has seen the traffic report for the Hannafords site and any other site we require a traffic study at Five Corners, so this is the genesis of right-of-way shown in the cul-de-sac back to the lands of Shedden. Go ahead, Mr. Shaw.

MR. SHAW: What I'm passing out to you is the same information that we spoke about the last time I was before this board and again the board was wrestling with the issue of density and how did it compare with, there's certain aspects you asked me to investigate, what I presented to you is a letter which I wrote May 9 to your board which basically was comparing the density of this project with three other provisions, the first of which was how does it compare with the number of units that were granted in the special permit back in 1990, 1991 and as you'll see in the first bullet of my letter is that we have 9 units less than what we, than what was indicated on the special permit for this property, nothing else but this property. The second bullet deals with how do we compare with the zoning of the R-5 zone on the lands of Petro with respect to density. Again, we're requesting a total of 177 units, if the Petro density were to prevail on our parcel we'd be allowed 253 units, again, substantially more than what we're asking for. We're asking for 177, 253 if

the R-5 zone continues into this property. And then finally the board had asked me how does this parcel compare with Patriot Ridge that you can see and have a feel for with respect to the density and based upon the area of that parcel and this parcel and the number of units that were built and what we're proposing we're about 60 percent, probably about 62 percent of the density of Patriot Ridge.

MR. ARGENIO: Do you have the numbers?

MR. SHAW: Yes, it's all in the correspondence.

MR. ARGENIO: Show me where it is.

MR. SHAW: It's in the last bullet on the May 9 letter that's just based on number of units divided by buildable acres. So I think I've demonstrated to the board, all right, that this project certainly falls within the guidelines of the special permit, the R-5 zone to the south and also substantially less than what the board sees when it drives by Windsor Highway and Union and looks at Patriot Ridge.

MR. ARGENIO: Let me make sure I understand, you're proposing 177 condos on about 41 developable acres?

MR. SHAW: Correct.

MR. ARGENIO: The condos that we look at now on that corner are 102 condos on 14.6 acres, is that correct? I'm reading from your letter.

MR. BABCOCK: Yes.

MR. SHAW: Yes.

MR. ARGENIO: Let me ask you a question. We're not comparing apples and peaches here, in the first thing you say 177 condos on 40 developable acres, the second

sentence says 102 units on 14.6 acres, how many condos is 102 units?

MR. SHAW: Same number, every unit is a condo.

MR. ARGENIO: Why do you use a different term?

MR. SHAW: I don't know that I did.

MR. ARGENIO: Well, it says it there.

MR. SHAW: I can't answer that, I'm not saying I didn't, there's nothing intended.

MR. ARGENIO: They're the same thing?

MR. SHAW: Exactly. Nothing intended.

MR. ARGENIO: Okay, I interrupted you.

MR. SHAW: That's pretty much it. We're looking for concept plan approval. We've been looking at this plan together probably for about six months and we're in a position of moving forward on the SEIS which is where we left this project off quite a while ago, the scope as Mark said is still valid and we're willing to pursue the preparation of that SEIS with that scope for the 177 unit project.

MR. ARGENIO: Guys, we're looking at this tonight as I said not for dumpster locations, for landscaping or for curbs or sidewalks or anything of that nature. We're looking at this as a concept. There's a lot of upgrades that the owner is going to be obligated to do relative, directly relative to the development of this project. There's sewer upgrades and there's different things that are handled on Mark's engineering level and at the Town Board level. But I'd like to get feedback from you guys on the concept. Mark, do you have anything you can add for these folks up here?

MR. EDSALL: I'll just second your comment that we've kind of re-invented the layout or we've asked Greg to re-invent the layout because of the goal of providing bypass road to decrease the problems at Five Corners and I think again it's repeating what you said, we have to acknowledge the fact they had to redesign the whole plan so that the road could fit in and they've done it and I think about the best way possible. There were some iterations along the way but this I think is a very workable plan with the goal of having the spine road run down the middle. So I have no problems with the concept layout, in fact, whatever difficulties I've had they've pretty much been worked out as Greg massaged the plan into what I think is a workable format.

MR. ARGENIO: Gred, there was an issue at some point in time with parked cars backing out onto the main drive, has that been, looks like that's been remedied?

MR. SHAW: I don't think that ever was an issue but it's not reflected in this plan at all. You'll see that the units in this particular area, actually, it's this cluster right here, we have an internal road system so no cars will be backing out onto the spine road.

MR. ARGENIO: Mark, am I confusing this with another application?

MR. EDSALL: No, we mentioned to Greg when he moved things around that's one of the things we wanted to occur and he worked it all out.

MR. ARGENIO: Neil, Howard?

MR. SCHLESINGER: Looks good.

MR. ARGENIO: As I said, there's no vote tonight,

there's no motions or anything on it. Henry or Dan?

MR. VAN LEEUWEN: You've got to make a motion for concept.

MR. EDSALL: There's no such thing as site plan, I would suggest that you endorse the density and then the second step just because they've got quite a task ahead of them to get the DSEIS completed, we want to acknowledge that the scope is still valid and let them use that scope with this plan.

MR. ARGENIO: Certainly.

MR. VAN LEEUWEN: On this temporary grading easement into the Petro property, okay, are you giving him a way out cause it doesn't look it here.

MR. SHAW: What we're doing is we're bringing a town road along the northerly boundary of his property which will provide access to his parcel which otherwise would be landlocked, even though he does have frontage on Windsor Highway, it's relatively narrow, it's less than 50 feet but that constricts and it's horrible sight distance that constricts, would go away with the construction of this town road which he could access at any point along this property.

MR. VAN LEEUWEN: That town road is going to--

MR. ARGENIO: Epiphany Drive, yes.

MR. ARGENIO: Greg, are you proposing that town road come all the way to the cul-de-sac?

MR. SHAW: Yes.

MR. SCHLESINGER: Did we have any issue with the crash gate on Park Hill?

MR. SHAW: What we proposed originally when we came before this board a long, long time ago was that being an emergency connection. Following that proposal, the town's position was that they wanted to have a full movement intersection which got the people of Park Hill concerned.

MR. ARGENIO: You think?

MR. SHAW: A little bit, a little bit. What we're proposing now to go back to the emergency crash gate with the emergency access drive and we believe it will be supported by the town but we won't know till we get further into the approval process but that's our proposal right now.

MR. ARGENIO: I agree with what you said.

MR. VAN LEEUWEN: We have quite a problem at Epiphany School where I forget what they call it, it's got a new name, but the, when the buses come in to pick up the kids if there's an accident or something in there they'll block up that whole driveway, has nothing to do with this but that's a major concern.

MR. EDSALL: Henry, one of the things that the chairman and I spoke about was that with this road installed and then even if we're lucky enough in long term to have the connection to 300 the school district then has the opportunity to come to the town and say look, we want to tie into that road and they could in fact distribute their bus traffic now through this road over to 300.

MR. ARGENIO: You can see their easement coming down through here, Henry, and hits right up in here so if they wanted to pursue that they'd have the opportunity.

MR. VAN LEEUWEN: Well, it needs to be done.

MR. GALLAGHER: I have no comments.

MR. ARGENIO: As I said, this is not a planning board review, size of the clubhouse, quantity of tennis courts, size of the pool, et cetera, is all something for a later discussion. So, Mark, do I need to vote or anything here?

MR. EDSALL: No, I think it would be worthwhile to have an endorsement so that the applicant has some understanding.

MR. ARGENIO: I'll poll the board. How does the board feel about endorsing this plan on a concept basis?

MR. SCHLESINGER: I'm in favor.

MR. BROWN: Concept basis.

MR. GALLAGHER: Yes, no problems.

MR. VAN LEEUWEN: I shouldn't but I will.

MR. ARGENIO: I feel the same way.

MR. SHAW: Before I go, I have one other issue. If you can take my correspondence and turn to the last page we spoke about this the last time I was here, all right, and if the board is not in a position to make a determination tonight.

MR. ARGENIO: I don't think we're going to be.

MR. SHAW: That's perfectly fine.

MR. ARGENIO: Share it with the other members so they can chew on it for the next time you're here.

MR. SHAW: What we have is a condominium proposal similar to what was in Patriot Ridge, you buy air space, okay, and from the a tax point of view the

property gets assessed as a whole and gets divided up by the number of units and this is your tax bill. What we're asking for the board to consider is that we put each and every unit on a postage stamp lot so when a person buys this condo they're also buying their dirt under the unit. And of course the condo would be responsible for the common charges, all the responsibility on the exterior of the building, I don't even know if it would be a condo association, maybe an HOA because you're owning the unit, you're owning the land. But what this does it creates a vehicle for New Windsor to get a better return on the taxes that this development is going to pay because each and every unit will be assessed so it would be 177 times a tax bill as opposed to a one bill which is going to be a lesser number divided by 177. So, again, may be premature to ask for a decision but I would like you to think about it, it's not going to change the project at all, the exterior of the project, it's all going to be maintained by the homeowners' association, just when a person buys a unit they're going to buy the dirt, okay, rather than the air space and New Windsor going to make out better on the taxes.

MR. ARGENIO: Greg, I would ask this of you, if you would be so kind, would you please for my benefit and the benefit of the other members put together a short and concise letter, page, page and a half giving us an outline of what you just said and the reasons it would be better for the town and mail that to Myra to my attention and I'd like to distribute that to the members so they can have a chance to read it and chew on it and if they have any questions they can ask you at the next meeting.

MR. SHAW: Sure.

MR. ARGENIO: For the benefit of the members of the board this was discussed on a concept basis by, with Mr. Edsall and the Town Supervisor and I think most

were in agreement that it was probably a better way to go for the town but I want to make sure you guys are as informed as you can be because we'll be the ones voting on it and you need to have as much information as you can.

MR. SHAW: Thank you.

MR. EDSALL: Mr. Chairman, if we can just relative to SEQRA I think it would be worthwhile again to let the record reflect the board's concurrence that the scope was still acceptable but also authorize the planning board attorney to verify if any procedural issues have to be taken care of and if a resolution needs to be prepared to that effect that one be prepared.

MR. ARGENIO: What type of resolution would be prepared?

MR. EDSALL: Basically be affirming the adoption of the scope for the DSEIS, Adam and I were just trying to verify if any step was missed and they want to look at it to make sure that if a resolution needs to be prepared that they're authorized to prepare it for the chairman's signature.

MR. ARGENIO: That's in the form of motion to vote?

MR. EDSALL: Just, yeah, a motion to authorize the attorney to prepare any necessary resolutions since the board concurs that the scope is still valid and they would proceed on, obviously, the applicant would proceed on this new plan.

MR. ARGENIO: Everybody understand that, that we accept the Draft Supplemental Environmental Impact Statement?

MR. VAN LEEUWEN: First one that's in your package.

MR. SCHLESINGER: I understand it, we need to review

it.

MR. ARGENIO: Is this the first you've seen it tonight?

MR. SCHLESINGER: First I've seen it.

MR. ARGENIO: Neil feels that he's unprepared to vote on it, this is the first that he's seen it.

MR. EDSALL: It's not been reviewed. What we'll do is possibly what you can do is look at it and discuss with the chairman or if you have questions as well for myself discuss what the basis of the Supplemental Environmental Impact Statement was.

MR. ARGENIO: What I'd like to do is this--

MR. EDSALL: We'll deal with it later.

MR. ARGENIO: We'll put it on, Myra, please as a discussion item at the next meeting and Greg and Mr. Perna, you guys don't have to come but it's been posted in the Town Hall for quite some time so take a look at it, check it out and we'll move on.

MR. SHAW: Good, thank you.

JOSEPH_FUMAROLA_(07-17)

Mr. Lou Tedaldi and Mrs. Bernadette Fumarola appeared before the board for this proposal.

MR. ARGENIO: Application involves subdivision of the 6.11 acre parcel into two single family residential lots. The plan is reviewed on a concept basis. Can I have your name please for the stenographer?

MS. FUMAROLA: Bernadette Fumarola, I'm here representing Joseph, my son.

MR. ARGENIO: Let's just get our plans. Can you tell us, Mr. Tedaldi, what you want to do here?

MR. TEDALDI: Originally, we had a parcel that we subdivided into five building lots and we had one lot and I don't know what it was but I'm thinking it was like maybe 7 acres and we waited three years for the health department, now we're taking lot 5 and subdividing that.

MR. ARGENIO: This is out way west on 207, correct?

MR. TEDALDI: Yes.

MR. ARGENIO: Near that road that's the back way into Maybrook, Forrester Road.

MRS. FUMAROLA: Opposite the post office.

MR. TEDALDI: Mr. Edsall asked us to get a perc test on the property, we tried for the last couple weeks but it didn't work out but we're getting it done tomorrow.

MR. ARGENIO: Scheduling problems.

MR. TEDALDI: Yes, tomorrow we'll do the percs being witnessed by I think it's Mike Kelly.

MR. EDSALL: Yes.

MR. BABCOCK: Good weather for it.

MR. EDSALL: We're waiting for the weather to be just right.

MR. TEDALDI: There's rock outcropping on I guess the south side and as it comes down and it's kind of a plateau as nature would have it that's all kind of sand and gravel where all the percs are being done.

MR. ARGENIO: Sand and gravel?

MR. TEDALDI: Well, you're in the business, you know that.

MR. ARGENIO: In the west end of the Town of New Windsor?

MR. TEDALDI: So actually that one little area where the edge of the rock outcropping is a lot of times it's all sand and gravel.

MR. ARGENIO: And your lots are 2.6 acres and 3.5?

MRS. FUMAROLA: Yeah, that's about right.

MR. TEDALDI: You asked about the driveway cut, maybe three years ago, four years ago when we had the subdivision we had it designed for two driveways knowing that we're going to try eventually to subdivide lot number 5, so that would be approved or brought before the state DOT at that time, in fact, I think in one of your letters you mentioned that, right, you contacted them and they did not have an issue with it?

MR. EDSALL: Yes, and I think you had talked to them and then it was mentioned to me by Sibby

Zacharia-Carbone (phonetic) from Newburgh, we'll send it formally just so that they can acknowledge this.

MR. ARGENIO: Mike, are you aware of any issues, any setback issues?

MR. BABCOCK: No.

MR. ARGENIO: Any other anomalies associated with this subdivision?

MR. BABCOCK: Not that I know of.

MR. VAN LEEUWEN: It's got to go to county.

MR. ARGENIO: Yeah, there's, unfortunately, as I said earlier in the meeting, there are procedures, laws that we have to follow. I'm not going to mention the perc test because you have them scheduled which that's good. Unless somebody objects, I'll accept a motion we issue lead agency coordination letter.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board issue a lead agency coordination letter. If there's no further discussion, I'll have a roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Item 4 is the public hearing and again

that's discretionary on our behalf and I'm going to go around the room and ask everybody, looks like we have the state highway in the front, the railroad bed in the back and that's abandoned.

MR. BABCOCK: Actually, there's one driveway that goes down the railroad bed.

MR. TEDALDI: I think it's owned by someone.

MRS. FUMAROLA: Mr. Congelosi and the bear lives there.

MR. ARGENIO: Well, if we have a public hearing he'll have to get notice if he's within 500 feet. Neil and Howard, can I get some feedback from you on the necessity for a public hearing on this application?

MR. SCHLESINGER: I guess same as the last applicant, can't see any major--

MR. VAN LEEUWEN: Make a motion we waive public hearing.

MR. ARGENIO: Danny?

MR. GALLAGHER: I agree.

MR. ARGENIO: We're out in the woods, the lot is fairly sizable, it's a 3 1/2 acre lot so I don't see any issue. I'll have a motion to that effect.

MR. VAN LEEUWEN: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board waive the public hearing on the Fumarola minor subdivision. If there's no further discussion from the board members, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Mr. Tedaldi, your property is within 500 feet of the state road which requires by law that this plan is submitted to the County of Orange for review.

MR. EDSALL: Planning Department, not Health Department.

MR. ARGENIO: County of Orange Planning Department, Myra can help you with where you send it if you contact her and there's really nothing else we can do with this tonight. That's it.

MR. TEDALDI: So we go--

MR. ARGENIO: You have to go to DOT. Did you do that?

MR. EDSALL: I'll refer it to both DOT and County Planning with Myra, we'll take care of that.

MR. TEDALDI: Thanks again.

MCARDLE_LOT_LINE_CHANGE_(06-17)

MR. EDSALL: That one was you had asked Myra if they needed to come in, we've heard back, the only thing that was holding it up was the referral to the County Planning again and County Planning returned it, I believe with local determination.

MS. MASON: They didn't answer at all.

MR. EDSALL: It's over 30 days. And I believe they did review it the first time so in any case if it's over 30 days they apparently are not interested in giving us any new opinions so--

MR. ARGENIO: Planning Board assumed lead agency and issued a negative dec under SEQRA, subsequently granted approval on 6/14/06, however, the applicant failed to properly file the plat, so we need as best I can see we need to affirm or reaffirm as it were our approval, yes?

MR. EDSALL: Yes and then just adopt, I would say affirm that you're obviously still lead agency, that there are no new issues.

MR. ARGENIO: I'll accept a motion if somebody sees fit that we reaffirm our position as lead agency for the McArdle lot line change.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board affirm our position for McArdle lot line change. No further discussion from the board members, roll call.

ROLL CALL

MR. SCHLESINGER AYE
MR. BROWN AYE
MR. GALLAGHER AYE
MR. VAN LEEUWEN AYE
MR. ARGENIO AYE

MR. ARGENIO: I'll accept a motion that we reaffirm the negative declaration under SEQRA.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board reaffirm the negative dec for the McArdle/Melrose lot line change. Roll call.

ROLL CALL

MR. SCHLESINGER AYE
MR. BROWN AYE
MR. GALLAGHER AYE
MR. VAN LEEUWEN AYE
MR. ARGENIO AYE

MR. ARGENIO: I'll accept a motion we waive preliminary and final public hearings for this project.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board waive preliminary and final public hearing for this project McArdle lot line change. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Conditional and final approval.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board offer conditional final approval for the McArdle lot line change. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

SCHOONMAKER_HOMES_(04-20)

MR. ARGENIO: Last is Schoonmaker, Mr. Steinberg, Schoonmaker Homes minor subdivision. This application proposes subdivision of 38 plus acre property into 4 single family residential lots. The plan was previously reviewed at the 9 February, 2005, 22 June, 2005, 26 October, 2005 planning board meetings. Mark, tell us a little bit about this. How are you, Mr. Steinberg?

MR. STEINBERG: Fine, thank you.

MR. EDSALL: It's similar to the previous application, the board did take action, it was approved the application, just failed to file the approved plat within the prescribed time period so now they're back.

MR. ARGENIO: Why did you fail to do that, Mr. Steinberg?

MR. STEINBERG: I was confused between the bonding and the putting in of the road and I was also seeking a purchaser at the time.

MR. ARGENIO: Go ahead, Mark.

MR. EDSALL: So that's the bottom line. The applicant is seeking re-approval. The only difference on this one is that notwithstanding the fact that it had a full review and had a previous approval we did by law since September, 2004 when the requirement was reinitiated with referrals to County Planning, we did send it to County Planning and they did have some suggestions, in fact, some of them are their conditions of approval. So if the board decides that those conditions aren't necessarily warranted we should itemize our reasoning and then we're going to have to send a report back to County Planning and you'll need a super majority to approve it.

MR. ARGENIO: I'm going to refrain from going too far with my personal commentary about the County's comments, they're certainly all in the packets and available to you to read. What I am going to do, however, is to relegate my comments to following Mark's commentary and then if anybody else has any input you'll certainly have the chance to speak. Comment number 2, project's unsuitable for number of lots proposed due to Orange County Soil Survey, recommendation extend buffer area, extend buffer area, we're recommended to extend the DEC buffer area of the wetlands to protect species feeding in the area. Recommendation to create buffer area for lot 4. Here's the response. Site sanitary design was prepared by a licensed professional engineer in accordance with NYS DOH guidelines and soils testing was it witnesses by a representative of the Town Engineer's office. All proposed facilities are positioned in accordance with state and federal requirements. I'll say it again, state and federal requirements. Applying increased spacing requirements or reducing the lot count on a previously approved subdivision could be construed as placing an unfair burden on the applicant. And adversely affecting his property rights. I added the adversely affecting his property rights. Comment 3, open space on site should be preserved and lot reconfigured such the wetlands ownership is with one lot and protection and maintenance of wetlands would lay upon a single property owner. Since the lands in question are a protected wetland, we do not see any benefit in a single ownership. This would result in at least one of the other lots not meeting this requirement.

MR. EDSALL: No, this one we verified that since the--

MR. ARGENIO: Would you please read the response for the minutes, Mark?

MR. EDSALL: The lands in question as far as the wetlands are protected by the state regulations so I see no difference who owns the wetlands, if they're protected, I don't see where there's a benefit in making one property owner on all the wetlands versus the wetlands being split.

MR. ARGENIO: They're protected in any event no matter whose name is on it they're protected. Read 4 and 5 too, Mark.

MR. EDSALL: Recommendation that the SWPPP be strictly enforced. I'm just telling you as with all applications the town's desire that all protective measures be enforced and the environment be protected, we do that anyway, it's not as if we say in some cases we'll enforce it, some cases we won't.

MR. VAN LEEUWEN: We enforce it all the time.

MR. ARGENIO: Go ahead.

MR. EDSALL: Comments 5 from the county was that the project be redesigned to maximize vegetation to be maintained.

MR. ARGENIO: There we're looking at a situation where it's an approved subdivision looking for reapproval, the County's recommendation which is quite late in the game which is after someone had approval was to redesign the whole subdivision and eliminate lots and I just believe that would be an inappropriate burden and would in fact diminish the property owners' land rights and I don't know that we have that ability.

MR. ARGENIO: I'm going to put the attorney in a difficult position. By subjectively moving a DEC buffer zone, subjectively relocating 100 foot buffer zone and making it 120 feet or maybe if we so desire 150 feet or 180 feet buffer if we so desire, do you

think it's possible that we have opened up ourselves to some liability in the future, whereas we apply a certain subjective standard to some applicants and a different subjective standard to other applicants? Is that possible, counselor?

MR. RODD: Well, certainly not.

MR. ARGENIO: In a paragraph or less.

MR. RODD: Not personal liability but certainly you would subject the decision to do so to attack on the basis of illegality.

MR. ARGENIO: Thank you, anybody have any other comments about this?

MR. SCHLESINGER: Yeah, I have just a question just to clarify procedure the applicant was here several years ago, got an approval, he forgot or whatever and time expired, he's coming back here now for reapproval. When he initially came it didn't have to go to County, now it has to go to County. Who sent it to County, what sparked it to go to County?

MR. EDSALL: The law.

MR. SCHLESINGER: In other words, when he came to Myra and said I want to get reapproval two weeks ago, a month ago, whatever it is, Myra turned around and said you have to send it to County.

MR. BABCOCK: It's not an extension.

MR. SCHLESINGER: No.

MR. BABCOCK: It's a brand new approval.

MR. SCHLESINGER: Just as a matter of procedure, I'm trying to understand at what point did it go to County?

MR. EDSALL: Right at the beginning.

MR. SCHLESINGER: Right when he came back and said it expired, what do I do?

MR. EDSALL: Sent it to the County because I figured it would come to you I was hoping with a fairly easy reapproval.

MR. SCHLESINGER: We understand that but it was, we have to follow procedure, I was just curious at what point it was.

MR. EDSALL: We sent it out immediately upon receipt and with the knowledge that the law changed between the prior approval and this approval.

MR. ARGENIO: Anybody else? I'll accept a motion we reaffirm our position as lead agency.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board reaffirm its position as lead agency for Schoonmaker Homes minor subdivision. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: I'll accept a motion that the board consider the Planning Department's comments and we

include their findings into the minutes of this meeting.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board consider their comments, include the findings in the minutes of the meeting.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: No conditions have changed since the approval, I'll accept a motion we reaffirm the negative dec for Schoonmaker Homes.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board reaffirm the negative dec on the Schoonmaker minor subdivision.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: I'll accept a motion we waive the preliminary and final public hearings on the Schoonmaker Homes reapproval.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that we waive the preliminary and final public hearings for this project. No further discussion, roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: I'll accept a motion we grant final approval to Schoonmaker Homes.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board grant final approval to the Schoonmaker minor subdivision.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

DISCUSSION_-_WARWICK_PROPERTIES

MR. EDSALL: The board has a copy of the Warwick Properties Mandelbaum senior application, not asking you to do anything with it, just letting you know that the procedure is that it comes to the Town Board and the planning board concurrently the Town Board is going to review it at their workshop and the attorney for the town is going to issue a memo to the planning board effectively saying we need your recommendation. So I would say at the next meeting you should be prepared to have opinions on it, keep in mind that I had previously told them their package was incomplete, they have since provided more information, I think it's a reasonable package now so you just need to be prepared to make a, give an opinion at the next meeting.

MR. SCHLESINGER: Is that senior housing?

MR. EDSALL: Yes, Warwick Properties, Mandelbaum senior project, it's located behind like Rite-Aid.

MR. ARGENIO: I'll accept a motion we adjourn.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE

June 27, 2007

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MR. ARGENIO

AYE

Respectfully Submitted By:

Frances Roth
Stenographer